

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JEREMIAH ALLEN RUTH,

Plaintiff,

v.

WALMART INC.,

Defendant.

No. 2:22-cv-1199-KJM-CKD PS

ORDER

(ECF No. 11)

On August 29, 2022, the court granted pro se plaintiff leave to proceed in forma pauperis on this employment discrimination complaint, pursuant to 28 U.S.C. § 1915. (ECF No. 10.) In conducting the screening required under § 1915(e)(2)(B), the court found that the complaint failed to state a claim and granted plaintiff leave to amend. (*Id.*) The court also denied as moot the motions to dismiss prematurely filed by defendant Walmart and another of the four defendants named in the original complaint. (*Id.*)

On September 16, 2022, plaintiff filed a First Amended Complaint against Walmart only, asserting claims under Title VII of the Civil Rights Act of 1964 (“Title VII”) and the Americans with Disabilities Act (“ADA”). (ECF No. 11.) Liberally construed, and considering all attachments, the First Amended Complaint states colorable claims under Title VII (on grounds of retaliation and discrimination based on race and sex/sexual orientation) and under the ADA—for screening purposes only, *see* 28 U.S.C. § 1915(e)(2)(B). The court reserves any substantive

1 decision on the merits of plaintiff's claims, and this order does not preclude defendant from
2 challenging plaintiff's First Amended Complaint through a renewed timely motion under Federal
3 Rule of Civil Procedure 12 or other appropriate method of challenging plaintiff's pleading.

4 Therefore, the court orders service of the First Amended Complaint on defendant;
5 however, personal service by the U.S. Marshal is not required in this instance because Walmart,
6 the sole remaining defendant, has already appeared in this action and (through counsel) is
7 receiving electronic service in this case.

8 **ORDER**

9 Accordingly, it is HEREBY ORDERED that:

- 10 1. The Clerk of Court shall update the docket to show the following parties as reflected in
11 the First Amended Complaint:
- 12 a. Correct the name of the first defendant to "Walmart Inc." in place of "Walmart
13 Stores Inc."; and
- 14 b. Terminate all other defendants;
- 15 2. The Clerk of Court is directed to issue a summons and all standard case-initiating
16 documents for this case; and
- 17 3. **Within 21 days** of the Clerk's issuance of the summons, defendant Walmart Inc. shall
18 respond to the First Amended Complaint (ECF No. 11).

19 Dated: October 3, 2022

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21 CAROLYN K. DELANEY
22 UNITED STATES MAGISTRATE JUDGE
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